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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,773	02/07/2002	Shell Sterling Simpson	10008242-1	3617

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EXAMINER

BAKER, CHARLOTTE M

ART UNIT

PAPER NUMBER

2625

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/071,773	SIMPSON ET AL.
	Examiner Charlotte M. Baker	Art Unit 2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 07 February 2002 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection. See rejection below.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the memory of a printing device must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

3. Note that the following claim objection (claims 13 and 19) was raised in the Office Action dated 12/13/2005, but there was no response in the Amendment filed on 03/01/2006 regarding this objection.

4. The following is a quotation of 37 C.F.R. 1.75 (d)(1):

The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.

5. Claims 13 and 19 are objected to because of the following informalities: “the network” lacks antecedent basis. Appropriate correction is required.

6. Claim 10 is objected to because of the following informalities: “memory of a printing device” lacks antecedent basis. There is no mention of a printing device with memory in the disclosure. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-7, 9, 11-16 and 18-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Patton et al. (US2003/0140017 A1).

**Regarding claim 1:** The structural elements of apparatus claim 12 perform all of the steps of method claim 1. Thus, claim 1 is rejected for the same reasons discussed in the rejection of claim 12.

**Regarding claim 2:** Patton et al. satisfy all the elements of claim 1. The structural elements of apparatus claim 13 perform all of the steps of method claim 2. Thus, claim 2 is rejected for the same reasons discussed in the rejection of claim 13.

**Regarding claim 3:** Patton et al. satisfy all the elements of claim 1. The structural elements of apparatus claim 13 perform all of the steps of method claim 3. Thus, claim 3 is rejected for the same reasons discussed in the rejection of claim 13.

**Regarding claim 4:** Patton et al. satisfy all the elements of claim 1. The structural elements of apparatus claim 14 perform all of the steps of method claim 4. Thus, claim 4 is rejected for the same reasons discussed in the rejection of claim 14.

**Regarding claim 5:** Patton et al. satisfy all the elements of claim 4. The structural elements of apparatus claim 15 perform all of the steps of method claim 5. Thus, claim 5 is rejected for the same reasons discussed in the rejection of claim 15.

**Regarding claim 6:** Patton et al. satisfy all the elements of claim 4. The structural elements of apparatus claim 16 perform all of the steps of method claim 6. Thus, claim 6 is rejected for the same reasons discussed in the rejection of claim 16.

**Regarding claim 7:** Patton et al. satisfy all the elements of claim 1. Patton et al. further disclose wherein the step of receiving the area and color (par. 39 and 41) is facilitated by presenting a representation of the imaging data to the user (Fig. 11).

**Regarding claim 9:** Patton et al. satisfy all the elements of claim 1. Patton et al. further disclose the step of storing the adjusted imaging data in a store that is accessible over a network (par. 33, mass memory device).

**Regarding claim 11:** Patton et al. satisfy all the elements of claim 1. Patton et al. further disclose the step of facilitating printing of the adjusted imaging data (printer 26, par. 32 and 44).

**Regarding claim 12:** Patton et al. disclose means for accessing imaging data to be printed (par. 31, “floppy and hard disks, Picture CDs, Photo CDs, and CD-ROMs, downloaded from the Internet, negatives, or scanned prints, or digital camera images” and 32, printer 26); means for receiving area and color selections from a user (par. 39 and par. 41, “For example, but not by way of limitation, text may be added, or the **color** of the image, or a portion thereof, may be adjusted”); and means for adjusting the color of the area as desired (par. 41, “For example, but not by way of limitation, text may be added, or the **color** of the image, or a portion thereof, may be adjusted”).

**Regarding claim 13:** Patton et al. satisfy all the elements of claim 12. Patton et al. further disclose wherein the means for accessing imaging data comprise means for retrieving data from a store that is accessible over the network (par. 31, downloaded from the Internet).

**Regarding claim 14:** Patton et al. satisfy all the elements of claim 13. Patton et al. further disclose wherein the means for retrieving imaging data comprise an imaging extension (par. 37, “When the consumer is satisfied with the image selected, the consumer selects the “Upload” button 68 and the file of the selected image is uploaded (step 72) to authorizing computer system 12 and appears in the window 79 of the image manipulation screen 73 (FIG. 11 )”).

**Regarding claim 15:** Patton et al. satisfy all the elements of claim 14. Patton et al. further disclose wherein the imaging extension comprises part of a user browser (par. 37 and Fig. 4-11).

**Regarding claim 16:** Patton et al. satisfy all the elements of claim 14. Patton et al. further disclose wherein the imaging extension comprises part of a network-based service (par. 37, “A consumer using a remote ordering system 14, such as a personal computer or kiosk 30, logs onto the central authorizing computer system 12.”).

**Regarding claim 18:** Arguments analogous to those stated in the rejection of claim 12 are applicable.

**Regarding claim 19:** Patton et al. satisfy all the elements of claim 18. Arguments analogous to those stated in the rejection of claim 13 are applicable.

**Regarding claim 20:** Patton et al. satisfy all the elements of claim 18. Arguments analogous to those stated in the rejection of claim 14 are applicable.

**Regarding claim 21:** Patton et al. satisfy all the elements of claim 20. Arguments analogous to those stated in the rejection of claim 15 are applicable.

**Regarding claim 22:** Patton et al. satisfy all the elements of claim 20. Arguments analogous to those stated in the rejection of claim 16 are applicable.

#### *Claim Rejections - 35 USC § 103*

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 8, 17 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patton et al. in view of Chan (6,342,952).

**Regarding claim 8:** Patton et al. satisfy all the elements of claim 1. The structural elements of apparatus claim 17 perform all of the steps of method claim 8. Thus, claim 8 is rejected for the same reasons discussed in the rejection of claim 17.

**Regarding claim 17:** Patton et al. satisfy all the elements of claim 12.

Patton et al. fail to specifically address a specific named color.

Chan discloses wherein the color comprises a specific named color (col. 5, ln. 15-24).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to include a specific named color in order to assure the closest match in color and quality as taught by Chan (col. 1, ln. 42-44).

**Regarding claim 23:** Patton et al. satisfy all the elements of claim 18. Arguments analogous to those stated in the rejection of claim 17 are applicable.

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Patton et al. in view of Kakigi et al. (US 2002/0054350 A1).

**Regarding claim 10:** Patton et al. satisfy all the elements of claim 1. Patton et al. further disclose adjusted imaging data (par. 33); print the adjusted imaging data (printer 26, par. 32 and 44).

Patton et al. fail to specifically address memory of a printing device.

Kakigi et al. disclose memory of a printing device (Fig. 1, memory card 110 and par. 148).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to include a printing device with memory in order to save time as taught by Kakigi et al. (par. 32).

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charlotte M. Baker whose telephone number is 571-272-7459. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly A. Williams can be reached on 571-272-7471. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
CMB

  
KAW

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SUPERVISORY PATENT EXAMINER